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From:

Sent: Tuesday, July 07, 2009 10:10:46 AM

To:

Cc:

Subject: RE: "Buddy Passes"

Without knowing more facts, I can't form a conclusive view. However, this is what occurs to me on just a quick read. How can it be reasonable to value all of these passes for round-trip space-available flights at the same flat rate (such as \$, \$, or \$) when our regulations clearly state that the value of a space-available flight is 25% of the actual carrier's highest unrestricted coach fare in effect for the flight taken?

Our regulations also clearly state that the date for valuing a space-available flight is the date that the flight is taken, regardless of the date on which the pass or ticket for the flight was issued. Reg. sec. 1.61-21(h)(4).

I would be inclined to resist any attempt to reduce the value of these passes below what is prescribed by section 1.61-21(h). However, I haven't seen the taxpayer's arguments and I don't know what sort of "restrictions" they are asserting as a basis for reducing the value to 10 - 15% of highest unrestricted coach fare.

I don't think prizes and awards under section 74(c) should come into play because these flight passes are not an item of tangible personal property within the meaning of section 274(j).